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Maine State Panel of Mediators Annual Report, Fiscal Year 2000

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ANNUAL REPORT
PANEL OF MEDIATORS
Fiscal Year 2000

The following report is submitted pursuant to 26 M.R.S.A. § 965(2)(E) (1988).

The number of new mediation requests received this fiscal year was slightly higher than that for the preceding year; there were 73 new requests compared with 69 in FY 1999 and 68 in FY 1998. During the last fifteen years, the number of new filings per year ranged from a low of 68 in FY's 1998 and 1996 to the record high figure--120 filings--in FY 1987. In addition to the new mediation requests received during the fiscal year just ended, there were 20 matters carried over from FY 1999 that required some form of mediation activity during the year. Last year, 32 matters were carried over from FY 1998. Thus, the total number of mediation matters requiring the Panel's attention in this fiscal year totaled 93, down slightly from 101 during the previous fiscal year. Anecdotal evidence from members of the labor-management community, together with the demonstrated demand for the Panel's services, establishes that such demand is essentially unaffected by the introduction of user fees during FY 1992. In the uncertain economy of recent years, most parties negotiated only one-year agreements, hoping that the situation would stabilize or improve sufficiently the next year to permit more productive negotiations at that time. Beginning about the middle of calendar year 1994, parties began returning to the practice of negotiating multi-year agreements, thereby reducing the number of agreements which expired this year. Given the statutory restriction that collective bargaining agreements not exceed three years' duration, last year's report anticipated continued growth in demand for the Panel's services this year. The steady demand this year reflects more significant factors affecting the bargaining process--improvement in the regional economy and increased state aid to education.

It should be noted that a mediation is recorded as a single request, even though it involves multiple bargaining units of a single employer. In such situations, the mediator undoubtedly expends substantial periods of time on issues particular to individual bargaining units, making the mediation process a long and complicated one. Thus, the number of mediation requests filed is not a completely accurate reflection of the Panel's actual work load.

The following table reflects the Panel's rate of success over the past several years:

Fiscal Year	Settlement Rate
1986	75%
1987	77%
1988	81%
1989	78%
1990	79%
1991	78%
1992	74%
1993	68.5%
1994	75.2%
1995	50%
1996	66.2%
1997	82.1%
1998	82.3%
1999	73.91%
2000	80.7%

The Panel's settlement rate increased substantially this year, returning to the trend over the preceding three years. Anecdotal evidence from Panel members indicates that the continued robust performance of the state and regional economies resulted in the availability of additional resources to fund settlements this year. One development this year that may have a negative impact on settlement rates in the future concerns health insurance premiums. Health insurance costs had remained relatively stable for the last few years due to efficiencies and economies realized through the introduction of managed care systems (HMO's, PPO's, etc.); however, premiums rose dramatically in the last quarter of this fiscal year and appear poised to continue to increase next year.

Over the past several bargaining cycles, the most difficult issues in Maine public sector negotiations were those with fiscal impact, especially wages and health insurance financing. This year, particularly in K-12 education, there was far less emphasis on financial issues and increased focus on language issues, especially those concerning the impact of educational policy changes on the working conditions of education sector employees. Wage settlements continued to be in the 3% range. Health insurance financing issues were also serious impediments to settlement, particularly the second half of the year. As has been the case for the past few years, the settlement rate in our non-confrontational preventative mediation initiative continued to be 100% (17 cases, 10 completed, 10 settlements, 6 cases carried forward). The increased demand for such services is indicative of maturity in labor-management relations, with parties more focused on mutual problem solving than on taking and holding positions at the expense of the other party.

Since both new filings and cases carried over from prior years contributed to the actual work load of the Panel in the course of the 12-month period, we have reported settlement figures that represent all matters in which mediation activity has been completed during the reporting period. The above settlement rate only includes matters where the mediator was actively involved in the settlement. Although parties who reach agreement after conclusion of the formal mediation process often credit the mediator's efforts as having been instrumental in resolving the dispute, the degree to which mediation contributed to the settlement is too speculative for such cases to constitute settlements for reporting purposes. Likewise, cases in which a request for mediation was filed but in which the parties settled their differences prior to participating in mediation are not included in the settlement rate.

The distribution of the Panel's caseload, according to the statute pursuant to which referrals were made over the last several years, is as follows:

Fiscal Year	New Cases Referred	Cases Referred Under State, University and Judicial Acts	Cases Referred Under Municipal Act, inc. County and Turnpike Authority Referrals	Private Sector Referrals	Agricultural Marketing Act
1986	98	3	93	2	--
1987	120	3	113	4	--
1988	91	6	81	1	3
1989	107	5	100	0	2
1990	115	6	106	1	2
1991	89	1	86	2	0
1992	94	3	90	1	0
1993	115	4	109	0	2
1994	114	4	109	0	1
1995	77	9	67	0	1
1996	69	5	64	0	0
1997	74	12	60	2	0
1998	68	2	66	0	0
1999	69	3	66	0	0
2000	73	6	67	0	0

The 73 requests for services received this year involved the following employee organizations:

Maine Education Association/NEA¹
Teamsters Union Local 340

36 requests
21

¹ While reference is made to the Maine Education Association/NEA for sake of simplicity, the various activities described were undertaken by local associations which are affiliated with MEA.

Maine State Employees Association	4
AFSCME Council 93	3
American Federation of Teachers	2
International Association of Firefighters	2
Maine Association of Police	2
Int. Assn. Machinists & Aerospace Workers	1
Maine State Troopers Association	1
Painters & Allied Trades District 35	1

The average number of mediation days per case increased from 3.46 in FY 1999 to 4.19 for the combined total of 57 matters, including carryovers, for which mediation was concluded. The maximum mediation days devoted to a single case this fiscal year was 13, mediation between the Maine Technical College System and the Maine State Employees Association for 2 employee bargaining units. Of the 57 cases in which mediation was concluded this year, one third (33.33%) were resolved in 2 days or less (10 cases were resolved in one day and 9 were resolved in two days). The mediation-days per case for all mediations completed this year was 4.19 days, with traditional mediations averaging 4.02 days per case and preventative mediations averaging 5 days per case.

The figures for the past fifteen-year period are summarized below:

Fiscal Year	Mediation-Days Expenditure Per Case
1986	2.43
1987	2.20
1988	2.45
1989	2.23
1990	2.52
1991	2.67
1992	2.75
1993	2.40
1994	2.51
1995	3.33
1996	3.20 (3.20)
1997	3.76 (3.25)
1998	2.84(2.27)
1999	3.46(3.47))
2000	4.19(4.02)

In order to assist in comparing the number of mediation-days per case over a multi-year period, we have included the number of mediation-days per case in traditional mediations within parentheses in the above table for the last 5 years--years during which preventative mediation services were provided. Although such services were also provided in 1995, only 2 preventative

cases were concluded that year and we were unable to break out separate meaningful statistics for traditional and preventative cases for that year.

Of the mediations, including carryovers, that were concluded in FY 2000, 14.04% proceeded to fact finding. The percentage of cases proceeding to requests for fact finding after mediation in each of the past several years is indicated below:²

Fiscal Year	Percentage of Cases Proceeding to Fact Finding
1986	16%
1987	20%
1988	17%
1989	21.5%
1990	20.73%
1991	28.81%
1992	23.8%
1993	23%
1994	23.6%
1995	25.8%
1996	30.99%
1997	15.94%
1998	14.71%
1999	30.43%
2000	14.04%

Assuming the average of 4.19 mediation-days per case, the 29 matters still pending will consume an additional 121.5 mediation-days, for a total expenditure of approximately 360 mediation-days devoted to matters docketed in or carried over to FY 2000.

Members of the Panel of Mediators during the past fiscal year were:

John Alfano	Biddeford
Osip Bukharin	Gorham
James Carignan	Lewiston
Donald R. Hamill	Portland
Paul Harrison	Bangor
Jack Hunt	Kennebunk
John J. Mahon	Camden
Nelson J. Megna	Oakland
Charles A. Morrison	Auburn
Richard Taylor	Scarborough

²All fact-finding requests are included, whether later dismissed, withdrawn or settled prior to hearing. Fact-finding hearings were convened in 12 cases, the parties settled prior to fact finding in 9 cases, and 4 cases are pending.

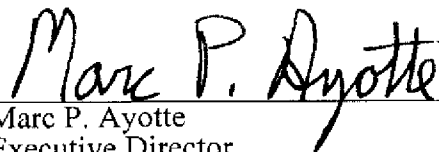
A significant development affecting the Panel members in FY 98 year was the implementation of P.L. 1997, ch. 412, An Act Amending the Compensation for Members of the Panel of Mediators. This measure, which was submitted by the Maine Labor Relations Board and supported by the Governor's Office, amends the compensation for State mediators in two ways: 1) rather than being allowed a per diem of \$100, regardless of the length of each mediation session or the number of sessions in a single day, mediators are now allowed to receive \$100 for up to 4 hours of mediation services and \$100 for each consecutive period of up to 4 hours thereafter and 2) the provision in Title 5 that restricted mediators to receiving one per diem per calendar day no longer applies. Mediators can now conduct two mediation sessions in the same part of the State in a single day, dividing the travel and other costs among 4, rather than 2, parties, thereby reducing mediator travel and the costs paid by each party. Since the members' per diem and expenses are funded through user fees, the fact that the bill was supported by both labor and management indicates the value our clients place on the Panel's services.

This was the second full year during which the amended compensation system has been in effect. Two observations are notable: 1) despite the higher fees charged to the parties, the overall demand for services has remained relatively constant and 2) the number of mediation-days-per-case has increased--an indication that those disputes that reach mediation have become harder to resolve.

The mediation process continues to be the cornerstone of the dispute resolution process in Maine. Practitioners in the public sector labor relations community have come to accept and value the process and the expertise and competence of members of the Panel. The members of the Panel have gained practical experience and insights that are invaluable in the effective use of this tool. The Panel's reputation and expertise, coupled with a growing awareness of alternative dispute resolution in our society, are likely to result in even greater demand for the Panel's services in the future.

Dated at Augusta, Maine, this 30th day of June, 2000.

Respectfully submitted,

A handwritten signature in black ink that reads "Marc P. Ayotte". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Marc P. Ayotte
Executive Director
Panel of Mediators and
Maine Labor Relations Board